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08/411,017 03/27/95 ZDEBLICK T

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/411,017	03/27/95	ZDEBLICK	T

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33M1/0606

EXAMINER

ISABELLA, D

ART UNIT	PAPER NUMBER
3308	17

3308

DATE MAILED: 06/06/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- ☒ Responsive to communication(s) filed on 4-8-97, 5-16-97
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire Three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

- ☒ Claim(s) 1-14 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 12-14 is/are allowed.
- ☒ Claim(s) 1-11 is/are rejected.
- ☒ Claim(s) 2 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1,3,4,5,6,7,8,9,10,11 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kohrs, et al.

Kohrs, et al discloses a fusion device having an elongated body 400, the body defining a hollow interior, an outer surface with a pair of opposite cylindrical portions(402-403 and 500) extending along the entire length of the the body and a pair of substantially flat opposite side walls( 408&405) between the cylindrical portions. The cylindrical portions having external threads formed thereon along the length of the body.

Claim 11, the notch is the area between the cylindrical thread portions and the flat opposite sides at the end of the body thereof.

4. Claims 12-14 are allowed.

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5. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

The reference to Kohrs, et al was published after the mailing of the final office action. Examiner has rejected the claims in view of Kohrs, et al.

Any inquiry concerning this communication should be directed to David J Isabella at telephone number (703) 308-3060.



DAVID J ISABELLA

PRIMARY EXAMINER

DJI

6-1-97